THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7821 OF 1997

ORAL ORDER:

This writ petition is field aggrieved by the action of the 1st respondent-Mandal Revenue Officer, Akividu, in directing the petitioner not to take water to her fish tanks situated in R.S.Nos.454 and 456 of Akividu village.

The petitioner claims to be the owner and possessor of the land situated in R.S.Nos.454 and 456 of Akividu, admeasuring Ac.6.85 and Ac.7.45 cents, respectively. It is stated that having obtained necessary permission from the Assistant Engineer, Irrigation Department, Akividu on 8.2.1996, the lands of the petitioner situated in R.S.Nos.454 and 456 were converted as fish tanks and for the purpose of said tanks, the petitioner has been drawing water from an irrigation channel flowing through R.S.Nos.455 and 453. While so, the 2nd respondent issued the impugned notice dated 1.4.1997 directing the petitioner not to draw water through the said channel alleging that it would cause damage to the path-way. The petitioner disputes the allegation that R.S.No.455 is a puntha poramboke and contends that the action of the 1st respondent in restraining the petitioner from drawing water is not only arbitrary and illegal, but also without jurisdiction.

In the counter-affidavit filed on behalf of the 1st respondent it is stated that the villagers of Nandamillipadu made a petition requesting to provide burial ground in R.S.No.455, which is kalva poramboke. However, the petitioner who owns an extent of Ac.14.30 cents in R.S.No.454 and R.S.No.456 encroached upon the canal and made two fish tanks into one including kalva in R.S.No.455. Hence, the impugned notice was issued, which cannot be said to be either arbitrary or illegal.

From the rival claims made by the parties, it is clear that the matter involves several disputed questions of fact, which cannot be

enquired into and decoded by this Court in writ proceedings. Since, admittedly, the impugned notice was issued without affording an opportunity to the petitioner to rebut the allegations that drawal of water to fish tanks would cause damage to the path-way, I deem it appropriate to direct an enquiry by the 1st respondent by giving opportunity to all the parties concerned to put forth their versions.

This Court while directing *Rule* nisi on 17.4.1997 granted interim suspension of the impugned notice, which continued to be in force throughout.

In the circumstances, without expressing any opinion on merits, the writ petition is disposed of leaving it open to the 1st respondent to issue a notice to the petitioner, in case the alleged obstruction to the path-way still continues, and take appropriate decision after considering the explanation of the petitioner.

Accordingly, the impugned notice is set aside and the writ petition is disposed of. No costs.

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(G. ROHINI, J.)

25th January, 2007.
Kgr.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.7821 OF 1997

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25th January, 2007.

Between:

Pulavarthi Saroja Lakshmi. .. Petitioner.

And

The Mandal Revenue Officer, Akividu
and another. .. Respondents.